

1 JUDGE RICARDO S. MARTINEZ
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 UNITED STATES OF AMERICA,) NO. CR 12-133RSM
10 Plaintiff,)
11 vs.) ORDER DENYING RELEASE
12 MARK F. SPANGLER,) PENDING APPEAL
13 Defendant.)
14 _____)
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16 This matter comes on before the above-entitled Court upon the motion for the
17 defendant's release pending appeal and the Court having considered the entirety of the
18 records and files herein, good cause appearing therefore, the Court DENIES defendant's
19 motion.

20 **I. Background**

21 On November 7, 2013 the defendant was found guilty by jury verdict of 24 counts of
22 Wire Fraud, 7 counts of Money laundering and one count of Investment Advisor Fraud.
23 On March 13, 2014 the Court sentenced the Defendant to a term of imprisonment of 192
24 months. The defendant has appealed his conviction and sentence and now requests that
25 he be released from custody pending the conclusion of that appeal.

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II. Discussion

Once a defendant has been found guilty and he requests to be released pending appeal, it then becomes his burden to show that he is not likely to flee or pose a danger to the safety of any other person in the community. 18 U.S.C. § 3143 (a)(2) provides in pertinent part:

the judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

(A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title...

In this case, the defendant argues that he does not pose a danger to the community and that he is not likely to flee the jurisdiction of the Court, therefore he requests to be released from federal prison pending the conclusion of his appeal. The defendant points to the fact that he has been present for the entire trial, has given up his passports, was aware of the extreme sentencing guideline range that he was facing and did not fail to appear for sentencing as proof that he is not a risk to be released.

The government responds by pointing to the facts contained in its previous Motion to Remand the Defendant to Custody following the guilty verdict (Dkt. #145), and arguing that additionally, the defendant is now facing an entirely different set of circumstances. The Court agrees. The defendant's prior willingness to leave the United

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1 States just prior to being arrested, his possession of multiple passports, his level of
2 sophistication, and the fact that he is now facing a certain and very lengthy term of
3 incarceration are all sufficient reasons for the Court to find that he has failed to carry his
4 burden to show by clear and convincing evidence that he is not likely to flee or pose a
5 danger to others in the community. Therefore, the Court DENIES the defendant's
6 motion for release pending appeal.

7 IT IS SO ORDERED.

8 DONE this 14 day of April 2014.

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11 RICARDO S. MARTINEZ
12 UNITED STATES DISTRICT JUDGE
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